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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,841	07/06/2001	Filippo Montanari	34907/GM/1P	8985

7590 06/11/2002

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EXAMINER

AMIRI, NAHID

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 06/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/869,841	MONTANARI, FILIPPO
	Examiner	Art Unit
	Nahid Amiri	3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 06 July 2001.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 20-38 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 23-33 is/are allowed.
- 6) Claim(s) 20-22 and 34-38 is/are rejected.
- 7) Claim(s) 23-33 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06 July 2001 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Information Disclosure Statement*

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### *Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 20-22 and 34-37 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,023,889 Husting et al.

In regard to claim 20-21: Husting discloses the claim invention in FIG. 1, column 2, line 53-61, shows that a shower apparatus 12, comprising an enclosure or a door 30 and a shower tray 34, wherein said enclosure or door and said shower tray are mutually disconnected, said enclosure or door having means which is post 10 for adjustable connection to the walls that form a cubicle for accommodating said apparatus 12. Also discloses the enclosure 30, which has, in plan view, a side being shaped like a circular arc with the convexity facing outward, is constituted by a frame having a peripheral seat P (as marked) inside which it is possible to arrange laterally two glazing panels 14 and 15 which are rectangular and flat and are arranged adjacent to walls 16 and 19.

In regard to claim 22: Husting discloses the claim invention in FIG. 1, column 2, line 54-60, that the glazing panels 14 and 15 there is an opening B (as marked) which is adapted to accommodate a door 30 which is shaped like a circular arc and is coupled to said frame (post) 23

and 24 and by means of two vertical hinges 31 and 32 which protrude from said frame along the same axis.

In regard to claim 34-37: Husting discloses the claim invention in FIG. 1, shows that the shower tray 34(as marked), rested on the ground below said enclosure 33 and spaced from a lower peripheral rim D thereof, has a peripheral rim A (as marked) which is raised with respect to an internal usable surface C, and raised peripheral rim A is curved upward in transverse cross-section, said curvature increasing in height in the part below said enclosure or door 33. Also discloses that the raised peripheral rim A of said shower tray is arranged externally with respect to said lower peripheral rim D of said enclosure and has a height from the ground which is greater than a distance from the ground of said lower peripheral rim D of said enclosure33.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3       Claim 38 rejected under 35 U.S.C. 103(a) as being unpatentable over Husting et al., as in view of DE 3800882 A1 Heinz Georg.

In regard to claim 38: Husting discloses the claim invention except for a way the channel arranged along the door to drain the water. Georg teaches in FIG.2-3 shows that water collection channel has, with respect to the horizontal plane, an inclined arrangement in order to convey the water to a drain which is arranged along said channel proximate to door 6 and 8. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide this channel, as taught by Georg in order to have easier water flow through the channel.

***Allowable Subject Matter***

4. Claims 23-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nahid Amiri whose telephone number is (703) 305-4241 and Fax number is 703-305-7687. The examiner can normally be reached on Monday-Friday from 8:00-5:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Carl Friedman can be reached at (703) 308-0839.

na

June 4, 2002



Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600